

JS 44 - NO. CALIF.
(Rev. 4/97)

CIVIL COVER SHEET

ORIGINAL

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. The form approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

RSR Corporation, Quemetco, Inc. and Quemetco Realty, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF ENTERED
TRACT OF LAND INVOLVED.

LODGED

RECEIVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Sean Carman, U.S. Dept. of Justice
c/o NOAA DARC, 7600 Sand Point Way, NE
Seattle, WA 98115
(206) 526-8617

ATTORNEYS (IF KNOWN)

Ted Millan, Hackett, Beecher & Hart
2200 Westlake Center, 1601 Fifth Ave.
Seattle, WA 98101

MAY 22 2000 KN

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (Specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 162 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Ubel & Stander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 680 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 620 Copyrights <input type="checkbox"/> 630 Patent <input type="checkbox"/> 640 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 460 Deposition <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 610 Selective Service <input type="checkbox"/> 650 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3410 <input type="checkbox"/> 691 Agricultural Acts <input type="checkbox"/> 692 Economic Stabilization Act <input type="checkbox"/> 693 Environmental Matters <input type="checkbox"/> 694 Energy Allocation Act <input type="checkbox"/> 695 Freedom of Information Act <input type="checkbox"/> 696 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 698 Constitutionality of State Statutes <input type="checkbox"/> 699 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 781 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 661 HIA (13952) <input type="checkbox"/> 662 Black Lung (923) <input type="checkbox"/> 663 DIWC/DIWW (405(g)) <input type="checkbox"/> 664 SSID Title XVI <input type="checkbox"/> 665 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 IRS - Third Party 26 USC 7609	

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

Recovery of response costs under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9607.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE."

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)

(PLACE AN "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

5-12-2000

SIGNATURE OF ATTORNEY OF RECORD

ORIGINAL

FILED ENTERED
LODGED RECEIVED
MAY 22 2000 KN
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

RSR CORPORATION, QUEMETCO,
INC., and QUEMETCO REALTY,
INC.,

Defendants.

Civil Action No.

C00-890L

COMPLAINT OF UNITED STATES

The United States of America, by authority of the
Attorney General of the United States and at the request of the
United States Environmental Protection Agency ("U.S. EPA"),
alleges as follows:

NATURE OF THE ACTION

1. This is a civil action brought pursuant to section 107
of the Comprehensive Environmental Response, Compensation, and
Liability Act ("CERCLA"), 42 U.S.C. § 9607, as amended by the
Superfund Amendments and Reauthorization Act of 1986. The United
States brings this action to recover response costs it has
incurred, and will incur, in responding to releases and
threatened releases of hazardous substances at the Soil and

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1 Groundwater Operable Unit of the Harbor Island Superfund Site
2 ("the Site") in Seattle, Washington.

3 2. The Site is contaminated with hazardous substances
4 including lead which originated from a lead smelter owned/and
5 operated by defendants. For the purpose of responding to the
6 contamination, EPA has divided the Site into five operable units.
7 This action relates to costs incurred or to be incurred by EPA in
8 connection with the Soil and Groundwater Operable Units.

9 JURISDICTION AND VENUE

10 3. This Court has jurisdiction over the subject matter of
11 this action pursuant to section 113(b) of CERCLA, 42 U.S.C.
12 § 9613(b), and 28 U.S.C. §§ 1331 and 1345.

13 4. Venue is proper in this district pursuant to Section
14 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b)
15 and (c), because the claims arose and the threatened and actual
16 releases of hazardous substances occurred in this district.

17 DEFENDANTS

18 5. RSR Corporation ("RSR") is a Delaware corporation with
19 its principal place of business at 2777 N. Stemmons Freeway,
20 Dallas, Texas. RSR is a "person" within the meaning of Section
21 101(21) of CERCLA, 42 U.S.C. § 9601(21). Beginning in 1972, RSR,
22 through its subsidiary Quemetco, Inc., owned a lead smelting
23 facility on Harbor Island in Seattle, Washington. RSR also
24 operated the facility. The Harbor Island lead smelting facility
25 was a "facility" within the meaning of section 101(9) of CERCLA,
26 42 U.S.C. § 9601(9).
27
28

1 6. Quemetco, Inc. ("Quemetco") is a Delaware corporation
2 and a wholly-owned subsidiary of RSR. Quemetco purchased the
3 Harbor Island lead smelter in 1969. In 1972 Quemetco became a
4 wholly-owned subsidiary of RSR, after which time RSR and Quemetco
5 jointly operated the smelter. Quemetco is a "person" within the
6 meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

7 7. Quemetco Realty, Inc. ("Quemetco Realty") is an Indiana
8 corporation and a wholly-owned subsidiary of RSR. Quemetco
9 Realty is a "person" within the meaning of Section 101(21) of
10 CERCLA, 42 U.S.C. § 9601(21). At all times relevant hereto,
11 Quemetco Realty was the owner of the real property upon which the
12 RSR Harbor Island lead smelter facility was located. Said
13 property was also a "facility" within the meaning of section
14 101(9) of CERCLA, 42 U.S.C. § 9601(9).

GENERAL ALLEGATIONS

15 8. The Harbor Island Superfund Site is located on Harbor
16 Island in Seattle, Washington.

17 9. In 1969 Western Lead Products purchased the Harbor
18 Island lead smelter. In 1970 Western Lead changed its name to
19 Quemetco. In 1972 Quemetco became the wholly-owned subsidiary of
20 RSR. From 1972 onward Quemetco owned the Harbor Island lead
21 smelter and jointly operated the Harbor Island lead smelter with
22 RSR.

23 10. In 1972 defendant RSR purchased Quemetco, the owner and
24 operator of the Harbor Island lead smelter. Thereafter RSR,
25 through its wholly-owned subsidiary Quemetco, owned the Harbor
26 Island lead smelter, and operated the Harbor Island lead smelter.

27
28
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1 11. In 1979 the Bunker Hill Company of Kellogg, Idaho sold
2 the real property underlying the Harbor Island lead smelter to
3 Quemetco Realty, Inc., another wholly-owned subsidiary of RSR.

4 12. Defendants RSR and Quemetco, Inc. owned and operated
5 the lead smelter during the time of disposal of hazardous
6 substances at the Site.

7 13. Defendant Quemetco Realty, Inc. owned the real property
8 on which the lead smelter was situated during the time of
9 disposal of hazardous substances at the Site.

10 14. There have been and are "releases," as defined in
11 Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and the threat
12 of continuing releases, of "hazardous substances," as defined in
13 Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), into the
14 environment at the Site.

15 15. The United States has incurred "response costs," within
16 the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25),
17 in response to the releases and threatened releases of hazardous
18 substances at the Site.

19 16. The Site is a "facility" within the meaning of section
20 101(9) of the CERCLA, 42 U.S.C. § 9601(9).

21 CLAIM FOR RELIEF

22 17. The allegations of paragraphs 1 through 16 are included
23 in this claim for relief.

24 18. The United States has incurred response costs in
25 connection with response actions at the Site, pursuant to Section
26 104 of CERCLA, 42 U.S.C. § 9604. The United States is continuing
27 to incur response costs, including enforcement costs associated
28

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1 with the recovery of funds expended as a result of the releases
2 and threatened releases of hazardous substances at the Site.

3 19. Each of the defendants is jointly and severally liable
4 to the United States under Section 107(a) of CERCLA, 42 U.S.C.
5 § 9607(a), for all response costs incurred by the United States
6 in connection with the Soil and Groundwater Operable Unit at the
7 Site.

8 REQUEST FOR RELIEF

9 WHEREFORE, the United States respectfully requests that
10 the Court:

11 1. Enter judgment against each of the defendants
12 jointly and severally, for all response costs incurred by the
13 United States in connection with the Soil and Groundwater
14 Operable Unit at the Site;

15 2. Enter a declaratory judgment holding each of the
16 defendants jointly and severally liable for all future response
17 costs incurred by the United States in connection with the Soil
18 and Groundwater Operable Unit at the Site;

19 3. Award the United States its costs in this action;
20 and

21 4. Grant such other and further relief as is
22 appropriate.
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Respectfully submitted,

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